

## Computerisation means better service for legal aid practitioners

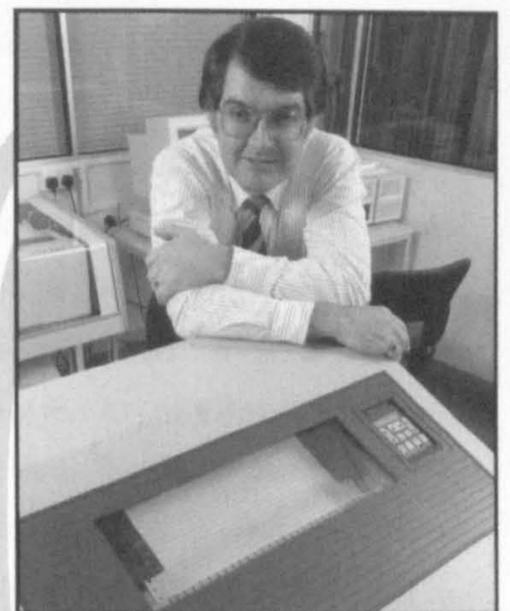
A new computer system is being installed nationwide to enable area offices to provide a more efficient service to the public and the profession. The system will provide many new facilities chief of which is the ability to answer telephone enquiries almost immediately. As practitioners know, Legal Aid has always been a paper bound operation. In a typical office there may be 250,000 files in use at any given time. Our investment in a new computer system will make us much less dependant on retrieval of paper files. Each office will have an enquiry desk providing a service to the profession and public which has not previously been possible. In Birmingham, where the system was first piloted, it was found that, over a 12 month period, 95% of enquiries were dealt with immediately over the phone. Information on the status of application, grant, refusal, limitations, are all held on the new system - facilities which the old one was

unable to provide.

Following the success of installation in Birmingham, the Board has gone ahead with installations in Liverpool, Reading, Newcastle and London. The benefits of this computerisation will soon become evident to our customers. The rest of the area offices will be computerised on a rolling programme with one office every two weeks so that all area offices will be computerised by the end of 1991. As soon as the system has been installed in the area office an eight week training period for staff follows. All area office systems will be fully operational by the end of March 1992.

The central accounting system is also under revision and improvements in the way we pay you will be just one of the benefits. The Board is adopting the BACS system of payment which offers improved cash flow for participating firms. BACS (Bankers Automated Clearing Services) allows us to transfer your

payment directly from our bank account to yours. You will be credited as soon as the bank is instructed to pay. You will thus be credited immediately with no need for you to bank your cheque and then wait for it to be cleared.



Terry Coles, Computer and Communications Director, outlines the recent computerisation of Legal Aid and the benefits this will have for the profession

This also removes the need for the Board to process and print the 14,000 cheques it currently issues every fortnight. Instead, participating firms will simply receive a remittance to show that they have been paid.

## Streamlined procedures introduced for reassessment and arrears cases

Speedier reassessments and tighter controls on payment of arrears were introduced for people on contributory legal aid on August 12th 1991. Having made significant improvements in the time it takes for legal aid certificates to be decided and bills to be paid, we have turned our attention to improving turnaround times on reassessments in cases where people need to re-negotiate their contributions and to addressing the debt problem of legal aid clients in arrears.

The old procedures allowed some people on legal aid to fall behind in paying their monthly contributions and were so cumbersome that others who wanted reassessments had to wait for anything up to 16 weeks.

Like the old means assessment system, the reassessment procedure involved double handling of work by the DSS, the area office and the central accounts department with the result that reassessments were taking much longer than necessary.

Under the new system, reassessments are still being carried out by the DSS in Preston but from August 12th have been controlled and co-ordinated entirely by the area offices. The accounts department in London will no longer be involved. The new streamlined procedures, piloted in Leeds earlier this year, allow assessments to be carried out in about five weeks.

As well as speeding up reassessments the new procedures will reduce the unnecessary cost of cases proceeding where the legal aid client is not cooperating with the reassessment. Each year about 15,000 people

seeking reassessments do not cooperate with the DSS in providing information about their financial circumstances. The new procedure pinpoints non-cooperation cases at an early stage allowing the legal aid certificate to be revoked as soon as it becomes clear that the case is not going to proceed anyway. The improved reassessment procedures will result in yearly savings of over £1.3 M.

Arrears procedures have benefited from a similar tightening up. Previously the Board stood to lose about £10M every year in unpaid contributions. A condition of being granted contributory legal aid is that the assisted person pays a contribution to the cost of his case on a monthly basis. Under old procedures certificates could continue for many months without any, or very few, contributions being paid. Last year this represented a loss of £10,206,000 to the Legal Aid Fund. The new procedures revoke or discharge certificates much earlier when people do not pay, or do not cooperate with the offer of a reassessment which might enable them to get a reduction or suspension of their contribution. Under new procedures area offices write to the assisted person as soon as he/she falls into arrears and if no payment or request for reassessment is received, the certificate is discharged after 31 days. The letter to the assisted person explains the implications of failure to pay contributions and sets out how the individual can apply for reassessment if he/she is in difficulty meeting payments.

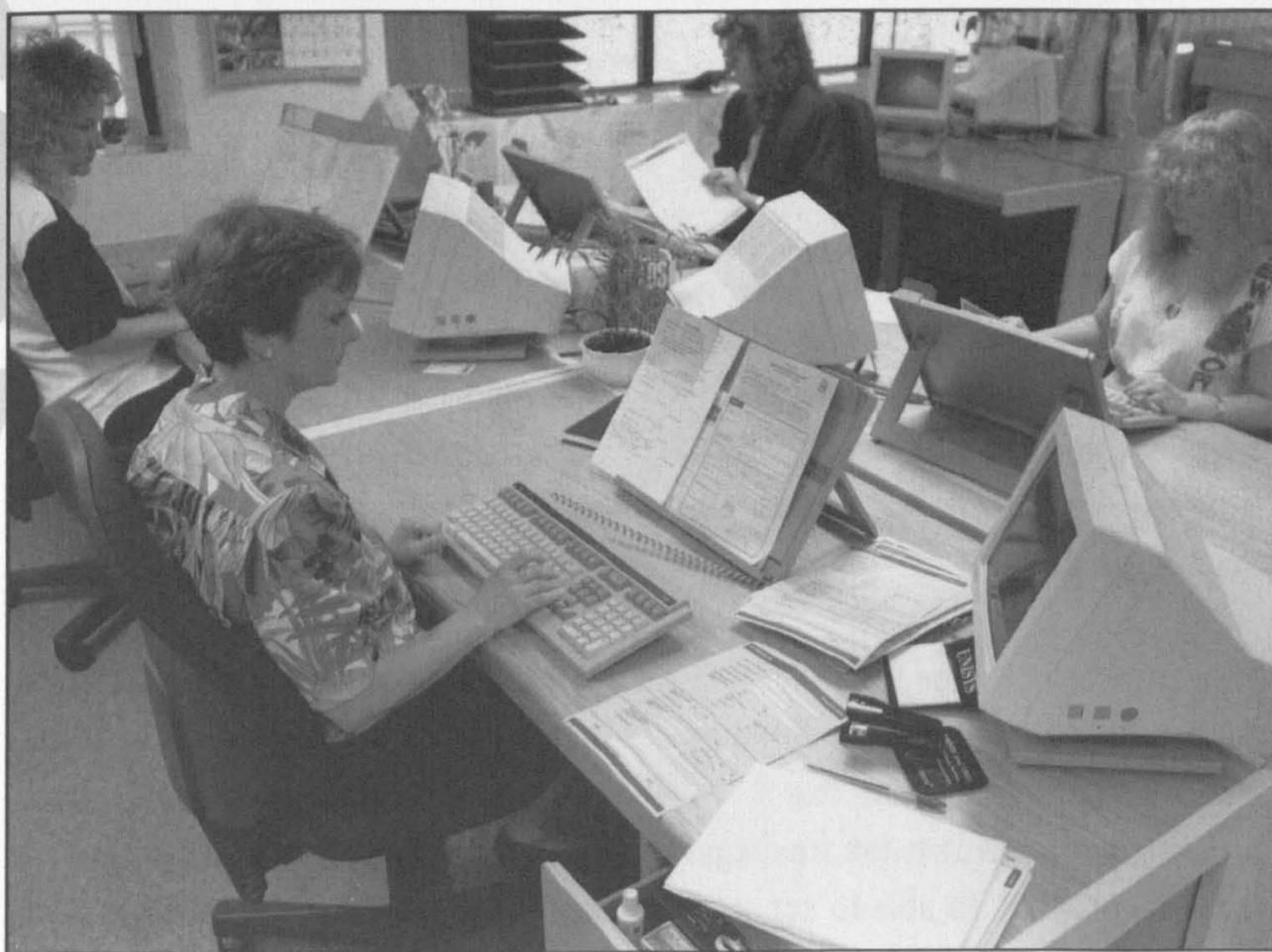
At the same time, the solicitor is

contacted and asked not to do any further work under the certificate without reference to the area office.

Thus, under new procedures, progress on the case will be dependent on the individual benefitting from legal aid making his/her contributions. Area offices will only authorise further work in limited circumstances, for instance, if a hearing is scheduled within the next few days.

**Steve Orchard Legal Aid Board**

**Chief Executive says, "The new procedures emphasise the requirement to pay the amended contribution whilst informing the assisted person and the solicitor of the possibility of reassessment in appropriate cases. The results of our improved contribution and reassessment procedures will ensure that double handling is eliminated, processing time speeds up and significant, but unnecessary, fund expenditure is ruled out."**



*Staff at the Birmingham office answer your enquiries on the new computer terminals.*

*By now you will have received a questionnaire from us asking if your firm would like to take part in the BACS initiative. We need to know your DX and/or Interlink number and location, your firm's fax/telephone number, VAT and Law Society/Counsel call number. In addition, you should confirm that your address and account number are correct and, if you have a head office, that you supply its legal aid account number. Finally, we will need the details of the bank account you would like your payments to be made to. Supplying us with this information will register your firm for payment by BACS. Questionnaires must be returned to us as quickly as possible and no later than October 21st. We hope to provide you with this service from November onwards.*

*Another improvement arising from the modernisation of the central accounting system will be the facility to quote your reference number on payment advices. This will enable you to match*

*up the payment advice to the relevant person in your office.*

*These improvements are significant but we continue to look for ways of improving our service to you. In particular, we are considering the long term possibility of direct computer communication between the Board and the profession. This is known as electronic data interchange (EDI).*

*It would allow you to prepare legal aid applications on your own word processors/computers and then to send them to the area office down a normal telephone line.*

*In turn the area office could notify the solicitor of the grant/refusal of the certificate by transmitting the information back in the same way.*

*The solicitor could also prepare his bill of costs and send that directly by EDI.*

*When the bill was authorised, the payment could be made using BACS.*

*The advice of payment could be notified to the solicitor again using EDI. This approach is already used in*

*the commercial world and there is no obvious reason why it should not operate successfully in the legal environment.*

*As an interim approach, we are considering accepting bills and other documents printed by solicitors' own word processors or computers rather than requiring these to be transcribed to legal aid stationery. For now, however, we are satisfied that the first stages of computerisation will have significant benefits for the profession. The Board's investment in computers will lead to increased speed and efficiency on your part and on ours.*

### ***Faster payment by BACS***

*Please return your BACS questionnaire by October 21st. Payment by BACS is quick and efficient and could enhance your cash flow*

# The Children Act



*The Children Act will come into force on Monday 14 October. There will be many changes to the way legal aid in child care cases operates. Below is an eight point plan setting out what the changes are and how you will be affected by them.*

**1.** Proceedings under the Act will be covered by civil legal aid subject to the usual civil legal aid means and merits tests. However there will be special arrangements for key players in certain proceedings and the special requirements regarding yellow summary jurisdiction certificates will be abolished.

**2.** There will be enhanced eligibility for children, parents and those with parental responsibility who are involved in care, supervision, child assessment and emergency protection order proceedings. These people will benefit from "free" legal aid, that is, non-means and non-merits tested legal aid. The child is also entitled to free legal aid where a local authority seeks the permission of the court to keep the child in secure accommodation. For the same people appealing against care or supervision orders there will be a merits test but no means test.

**3.** For other applicants involved in care, supervision, child assessment and emergency protection order proceedings - that is those applying to be joined and parties to the proceedings - there will still be a

means test but no merits test. For all cases except free cases, the civil legal aid means test will be prioritised by the DSS to enable swift decision making. In addition, telephone and written emergency legal aid applications will ensure that there is no delay.

**4.** In cases where free legal aid applies the solicitor, having satisfied himself that the client and the proceedings fall within the free legal aid category, will be able to act at once. The solicitor will complete a simple form certifying that his client attracts free legal aid. Providing the form reaches the Board's area office within 3 working days of instruction the solicitor will be covered for all his costs in acting in the actual proceedings. Any work done prior to the commencement of actual proceedings and receipt of instructions to act should be claimed under the Green Form - subject to the usual eligibility rules.

**5.** Generally, the solicitor is applying for legal aid for an adult only one application and one certificate is needed for family proceedings even where there is more than one set of proceedings. Family proceedings is defined to include Children Act, wardship / inherent jurisdiction and adoption. Where the solicitor is applying for the children in family proceedings separate applications and certificates are needed for each child.

**6.** Special Legal Aid application forms have been designed to cover Children Act proceedings. The new and amended application forms have already been circulated to all legal aid account holders and supplies are available from area offices. The Board consulted the Law Society and the Solicitors Family Law Association to ensure that the forms would be as user friendly as possible. They are designed in such a way that they are easily identifiable. This will ensure speedy handling by area offices. Old forms will not be rejected but in the interests of speed you are advised to use the new forms. The self certification form must be used for free legal aid cases. The following tables show which form to use and when a certificate or ABWOR approval can be amended.

**7.** In public law cases, transfer of proceedings in accordance with the Children (Allocation of Proceedings) Order 1991 is covered without amendment of the certificate. Certificates for private law cases between individuals may specify the court where the proceedings are to be commenced but, even where that is the case, an amendment will not be required for a horizontal or vertical transfer or the subsequent conduct of the proceedings.

**8.** Notes for guidance on the Children Act will appear in the new Legal Aid Handbook to be published early in November. The handbook will set out Regulations, procedures and guidance for the Children Act.

# CHILDREN ACT FORMS TABLE

Proceedings	Parties	Conditions	Form
<i>s25</i>	<i>child</i>	<i>non means, non merits tested or free</i>	<i>CLA5A alone</i>
<i>s31, 43,44,45 (plus related proceedings)</i>	<i>child, parents, those with parental responsibility</i>	<i>non means, non merits tested or free</i>	<i>CLA5A alone</i>
<i>application to join and those already joined as parties to s31, 43,44 or 45 proceedings (+ related proceedings)</i>	<i>any*</i>	<i>means tested only</i>	<i>CLA5(+ appropriate means form in any event + CLA3 if emergency certificate sought)</i>
<i>any other freestanding Children Act proceedings adoption, wardship</i>	<i>any*</i>	<i>means and merits tested</i>	<i>CLA5 (+ appropriate means form in any event + CLA3 if emergency certificate sought).</i>
<i>any Children Act application in other matrimonial/ family proceedings</i>	<i>any*</i>	<i>means and merits tested</i>	<i>CLA2A (+ appropriate means + CLA3form in any event if emergency certificate sought) [ABWOR may be applied for using form ABWOR 1A where ABWOR is available i.e. for proceedings under Part I Domestic Proceedings and Magistrates' Courts Act 1978 and where proceedings which would have previously been taken under the Guardianship of Minors Acts or Children Act 1975 (Custodianship) now fall to be taken under the Children Act]</i>

\*Note: Legal aid is not available to local authorities, any body acting in a representative, fiduciary or official capacity or guardians ad litem for proceedings under the Children Act 1989.

# CHILDREN ACT IMPLEMENTATION - PRIVATE LAW PROCEEDINGS BETWEEN INDIVIDUALS

*NOTE: Where proceedings have not been commenced certificates can be amended to cover Children Act proceedings whatever the date of issue of the Certificate*

## **CIVIL LEGAL AID**

### **Pending applications**

1. Custody and access applications treated as for residence and contact (unless contrary indicated in the application).
2. Guardianship  
Custodianship  
Wardship } query made as to how the legal aid application is to proceed unless made clear in the application

### **Where proceedings have been commenced**

1. Existing yellow summary jurisdiction certificates can be amended to cover Children Act proceedings .
2. Existing matrimonial certificates [including proceedings under the Domestic Violence and Matrimonial Proceedings Act 1976] cannot be amended to cover Children Act proceedings.
3. Existing Guardianship of Minors Acts, custodianship or wardship certificates cannot be amended to cover Children Act proceedings unless proceedings have not been commenced or, for Guardianship of Minors Act/custodianship, the certificate is a summary jurisdiction certificate. Amendment applications must be refused for non summary jurisdiction certificates unless it is clear that proceedings have not been commenced.

### **Future certificates**

Regulation 46(3) of the Civil Legal Aid (General) Regulations 1989 as amended which applies to proceedings commenced on or after 14 October 1991 will permit certificates to be issued or amended to cover more than one action cause or matter in the case of family proceedings. Family proceedings are widely defined so that regardless of whether proceedings have been commenced it will be possible for one certificate to cover Children Act proceedings and:

- matrimonial proceedings
- wardship
- Domestic Violence and Matrimonial Proceedings Act 1976
- adoption

although Children Act Section 8 orders may be applied for in those proceedings as part of those proceedings so that the application of Regulation 46(3) has reduced significance in any event. Note however that an injunction based on assault cannot be combined in one certificate with Children Act proceedings and that it is not possible to apply for a Section 8 order in those proceedings.

## **ABWOR**

### **Pending applications**

- Guardianship  
Custodianship } query made as to how the application is to proceed unless made clear in the application

### **Existing approvals**

Whether proceedings have been commenced or not, existing ABWOR approvals can be amended to cover:

1. Applying for Children Act orders in proceedings under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978
2. Children Act proceedings where the Children Act provisions replace the Guardianship of Minors Acts 1971 and 1973 and Part II of the Children Act 1975.

# PAYMENT ARRANGEMENTS UNDER THE CHILDREN ACT

The rates of payment are contained in the Legal Aid in Family Proceedings (Remuneration) Regulations 1991. They appeared in the Law Society's Gazette of 25 September and will be published in the new Handbook. In fact, the only new rates of payment are for care proceedings. For this purpose care proceedings are proceedings under Parts IV and V Children Act 1989, namely, care, supervision and protection of children. These new rates, which include a care and conduct element, are as follows:

Item	Magistrates' Court or County Court £	High Court £
<i>Writing routine letters</i>	<i>3.50 per item</i>	<i>4.00 per item</i>
<i>Receiving routine letters</i>	<i>1.75 per item</i>	<i>2.00 per item</i>
<i>Routine Telephone Calls</i>	<i>3.50 per item</i>	<i>4.00 per item</i>
<i>All other preparation work</i>	<i>55.50 per hour</i> <i>(58.50 Area 1)</i>	<i>62.50 per hour</i> <i>(66.75 Area 1)</i>
<i>Travelling and Waiting</i>	<i>28.00 per hour</i>	<i>30.50 per hour</i>
<i>Attending Counsel in Conference or with Counsel at court</i>	<i>31.00 per hour</i>	<i>35.50 per hour</i>
<i>Attending court without Counsel (advocacy)</i>	<i>61.00 per hour</i>	<i>61.00 per hour</i>
<i>Junior Counsel's fees and taxation / review items will be remunerated on the basis of the existing matrimonial rates.</i>		

The existing matrimonial rates are applied to matrimonial proceedings in the County or High Court as well as to non care Children Act proceedings and other prescribed family proceedings. These rates prevail where there is a "mixed" certificate. There is no scale rate for proceedings under the Domestic Violence and Matrimonial Proceedings Act 1976 where the costs continue to be taxed/assessed in accordance with rules of court. The existing criminal rates apply to family proceedings (other than care proceedings) in the Magistrates' Court. (See rates published in Legal Aid Focus 2).

Magistrates' Court costs must be assessed by the area office in all cases. County and High Court costs may be assessed by the area offices if those costs are within the £500+ to £1000 band - again costs up to £500 must be assessed by the area office. The assessment limits apply by reference to the County/High Court costs only; the Magistrates' Court costs are disregarded in applying the limits.

Costs may be wholly assessed or assessed and taxed. If both the Magistrates' Court and higher court costs are to be assessed then at the conclusion of the case one claim using one form CLA16 (report on cases and claim for costs) and one form CLA17 (bill or costs) should be submitted to the appropriate area office. The form CLA17 must make the rates on which the claim is based entirely clear - the date(s) of transfer of the case between courts should be included in the summary of case at the top of the form CLA17 and the basis of claim including letters and telephone calls should be shown (e.g. 10 at £3.50, 10 at £4.00 = £73.50).

If costs fall to be both assessed and taxed then two separate CLA16 forms must be submitted - one for the assessed element and one for the taxed element. The assessed element may be claimed on the conclusion of the proceedings (i.e. before the taxed element) or when the taxation has taken place. For the assessed element a form CLA17 should be completed for assessment in the usual way although again the date of transfer of the proceedings should be indicated in the summary of case.

Costs in the old care cases continuing after 14 October should be claimed from the area offices using form CRIM 5 (Report on Case). However, the new care rates set out above apply to work done on or after 14 October.

Costs should therefore be apportioned between work undertaken pre and post 14 October.

CRIM 5 should be amended by practitioners to insert the new work category - receiving routine letters.

Forms CRIM 5, CLA16 and 17 are all to be revised as part of the Board's forms revision programme.



## **Civil Legal Aid Bills - Increase in Assessment Limit**

*Changes in the assessment limit for civil legal aid bills have meant faster payment for legal aid practitioners.*

*July 1st saw changes in the Civil Legal Aid Regulations which allowed bills of up to £1000 (where proceedings had begun) to be assessed by the area offices of the Legal Aid Board. Previously bills over £500 had to be taxed by the courts.*

*The increase in the assessment limit reflects the confidence that has been expressed by the Law Society and the Lord Chancellor's Department in the Board's ability to process bills quickly. Management information shows that the majority of bills which go direct to area offices are paid within four weeks of receipt. The increase in assessment level affects over 30,000 bills which have now become eligible for assessment by the Board. Alongside the assessment level increase, the Regulations now stipulate that bills for £500 or less must go to area offices. From July 1st the option of taxation has been ruled out.*

## **CLA4A Change**

*In a bid to simplify the procedures which legal aid applicants and solicitors have to follow we have removed the requirement that two financial forms (CLA4As) be submitted in the case of husband/wife/co-habitee applications in which there is no contrary interest.*

*Area offices are now accepting a joint CLA4A where the partners' resources are being assessed together.*

*We hope that this measure will reduce the time involved in answering our questions. To speed up the assessment however a photo-copy of the CLA4A should be sent with the application form as the DSS assessment office will still need to set up a file for each partner.*

***The Legal Aid handbook will be published early in November. It will include all the Children Act Regulations as well as guidance on the new procedures.***

***The Handbook is available from Sweet and Maxwell price £10.25. Telephone orders can be placed on - 0264 334223.***

***Additional copies of Legal Aid Focus can be obtained from Kate Enright Information Officer, Legal Aid Board Head Office, 5th & 6th Floors, 29-37 Red Lion Street, London WC1 4PP.***

